



STAFF REPORT

Proposed Amendment to City Attorney Contract

Honorable Mayor and Council Members:

Summary

The City Attorney requests that her contract be amended to provide for a monthly retainer of \$7,165 and an hourly billing rate for non-retainer work at \$170 per hour.

Background and Discussion

The City Attorney reviews all contracts, contract specifications, leases, JPA agreements and MOU's to determine their legal sufficiency. She also drafts numerous documents for staff and Council review, including easements, deeds, right of entry agreements, hold harmless agreements and releases. Additionally, Public Records Act requests, subpoenas and claims are directed to the City Attorney's office for review and/or response. The City Attorney drafts resolutions, ordinances and associated staff reports as requested by Department Heads, the City Manager and/or the City Council. Periodic reviews of City policies and ordinances are conducted to determine if amendments are needed to comply with current law. Memos are provided to staff and the City Council on a regular basis to report on recent developments in statutory or case law so that the City will proactively address new issues and legal requirements.

The City Attorney's current contract authorizes payment of an agreed retainer amount of \$6,053 per month and fees for non-retainer services are billed at the rate of \$150 per hour.

Retainer Services: The services covered by the retainer include attendance at all regular and special City Council meetings and Planning Commission meetings. Additionally, the City Attorney attends weekly Senior Management Team meetings held at City Hall. The City Attorney is also available on a daily basis to meet with Department Heads and staff members whenever necessary, at City Hall. The City Attorney also communicates through e-mail and telephone, on a daily basis, with Department Heads or staff members, on a wide variety of legal issues raised by all City Departments. The City Attorney and the City Manager are working to clarify the contract language regarding retainer services.

Per the retainer, the City Attorney's office also provides two Deputy City Attorneys who are available to assist City staff and/or Council whenever necessary. The City Attorney's office also provides, pursuant to the retainer, all secretarial assistance necessary to accomplish the above-referenced tasks. She also employs a paralegal whose work is not separately billed to the City. Additionally, the retainer covers all costs associated with the maintenance of the City Attorney's office space, supplies and equipment including a computer system, which has Westlaw research capability, and a full service law library.

The average monthly retainer rate for contract city attorneys on the Peninsula is \$7,165. Belmont's current monthly retainer rate is \$6,053. From September 2000 to September 2001, a total of 801.25 hours were expended on the retainer. Therefore, during this time period, the effective hourly retainer rate was \$72.69 per hour. From September 2001 to December 2002, 870.40 hours were spent on the retainer. The effective hourly retainer rate for this time period was \$91.15. Between January and March of 2003, 181.05 hours were expended on the retainer. The effective hourly retainer rate for this time period was \$95.80 per hour.

Non-Retainer Services: All non-retainer work is billed at the rate of \$150 per hour. This includes litigation, representation of the City at administrative hearings and special projects, which require extensive research. The average hourly billing rate for contract city attorneys on the Peninsula is \$189.68 per hour.

Based upon the above-referenced information, the current retainer rate and hourly non-retainer rate are below the average paid to contract city attorneys on the Peninsula.

The City Attorney requests that the retainer be adjusted to the average rate of \$7,165. If the retainer is adjusted to the Peninsula average of \$7,165, this translates into approximately 50 hours per month at the rate of \$150. As a review of the retainer hours for the period September 2000 to March 2003, the City Attorney's office has spent a monthly average of 69 hours on the retainer.

As indicated above, the current non-retainer service billable rate is \$150 per hour. Since her appointment in 1995, the City Attorney has received only one adjustment to this billing rate, from \$125 to \$150 in the budget process of 1998. The average billable rate for contract city attorneys on the Peninsula is \$189.68 per hour. The City Attorney requests an adjustment in the non-retainer billable rate to \$170 per hour.

Fiscal Impact

The increase in the retainer from \$6053 to \$7165 represents an annual increase of \$13,332 over what is budgeted; this amount will be paid from the Fund Balance. It is difficult to predict with any certainty the yearly increase in costs for non-retainer work with an hourly billing rate increase from \$150 to \$170 because much of this work results from claims filed or litigation initiated by third parties. The City Attorney is required, as are all other departments, to operate within the budget established for the office by the City Council. The approved budget for non-retainer work is \$125,000. The City Attorney's expenditures will be monitored carefully over the next few months.

If a mid-year budget adjustment is needed that request will be made in February, 2004 at the Mid Year Review.

Recommendation

It is recommended that the City Council authorize amendment of the City Attorney's contract to provide for a monthly retainer of \$7,165 and an hourly billing rate of \$170.

Alternatives

- (A) Decline to authorize this amendment.
- (B) Propose alternative contract amendment language.

Public Contact

This matter has been agendized as required by the Brown Act, Government Code Section 54950, et seq.

Attachments

1. Resolution Authorizing Contract Amendment.

Respectfully submitted,

JERE A. KERSNAR
City Manager

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT AUTHORIZING AN
AMENDMENT TO THE CONTRACT FOR CITY ATTORNEY SERVICES

WHEREAS, the City of Belmont contracts with Jean B. Savaree for services as City Attorney; and,

WHEREAS, the City Council wishes to authorize an amendment to the contract providing an
adjustment in the monthly retainer and hourly billing rate.

NOW, THEREFORE, BE IT RESOLVED, that effective September 1, 2003 the City Council of the
City of Belmont hereby authorizes payment of a monthly retainer of \$7,165.00 and the hourly billing rate at
\$170.00 per hour, for the City Attorney's services.

BE IT FURTHER RESOLVED, that the City Council of the City of Belmont hereby authorizes and
directs the City Manager to execute an amended contract with the City Attorney, and directs the City Clerk to
affix her signature thereto

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City
Council of the City of Belmont at a regular meeting thereof held on August 26, 2003 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont